

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KAREN A. RITTINGER,

)

Plaintiff,

)

v.

)

HEALTHY ALLIANCE LIFE
INSURANCE COMPANY, *et al.*

)

Defendants.

)

Case No. 4:15-cv-01548-CAS

*Se Ordred
CR
2/9/16*

**PLAINTIFFS' NOTICE OF VOLUNTARY DISMISSAL
WITHOUT PREJUDICE UNDER FED. R. CIV. P. 41(a)(1)(A)**

1. Federal Rule of Civil Procedure 41(a)(1)(A)(i) provides that a party may voluntarily dismiss an action without a Court order or other-party consent so long as the opposing party has not yet served an “answer or a motion for summary judgment.”
2. The Defendants have not filed an answer or a motion for summary judgment in this action.
3. Nonetheless, when Plaintiff first gave notice of voluntary dismissal without prejudice, as the Court noted on January 14, 2016, there technically were no pending claims at such time; thus the Court deemed such notice inappropriately filed.
4. Plaintiff’s counsel apologizes to the Court for doing so, and states that he acted in good-faith, but based on a misconstruction of the Court’s previous Order.
5. Plaintiff now has complied fully with the Court’s Order that Plaintiff submit an amended complaint asserting her claims under ERISA (see FIRST AMENDED COMPLAINT, Doc. 25).
6. Accordingly, under Rule 41(a)(1)(A)(i): (1) Plaintiff now has pending claims under

ERISA as instructed by the Court, and (2) Defendants have submitted no answer or motion for summary judgment in response thereto as of the date of the filing of this Notice of voluntary dismissal without prejudice.

7. Thus, all conditions having been fulfilled to the best of Plaintiff's knowledge, this Court's instruction, and the language of Rule 41(a)(1)(A)(i), Plaintiff hereby voluntary dismisses this action without prejudice and requests the Clerk of the Court to note and enter the same.

Respectfully submitted,



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